



# MEMORANDUM

DATE: January 21, 2025  
TO: City Commission  
FROM: Jordan Smith, AICP, PP Planning and Development Services Director  
THRU: Doc Dougherty, City Manager  
SUBJECT: Resolution No. 2024-65 a Variance to increase the maximum lot coverage to accommodate a +/- 798 square foot in-ground pool, deck, and screen enclosure to be permitted on a +/- 0.16-acre property located at 3469 Berkshire Woods Terrace within the R1, Single-Family Residential Zoning District. Applicant: Vikki Bailey (Quasi-Judicial – Public Hearing) (Brandon Hatch, Project Manager)

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**REFERENCES:** City Comprehensive Plan, Code of Ordinances.

**REQUEST:** The applicant is requesting a variance to allow an increase in maximum lot coverage from 35% to 41% to accommodate a +/- 798 square foot in-ground pool, deck and screen enclosure accessory structure on an existing home on +/- 0.16 acres at 3469 Berkshire Woods Terrace. The variance is related to lot coverage.

The tax parcel number for the subject property is 8105-25-00-4220.

## **DISCUSSION:**

**Location and History:** The subject property is located on the east side of Berkshire Woods Terrace approximately 120 feet south of Teak Drive and 1380 feet north of Heath Drive. The Future Land Use is Low Density Residential (LDR), and the zoning is R1. The subject property is within the Arbor Ridge subdivision Unit 5 and was permitted and approved through the City of Deltona in 2017.

**Project Description:** The existing single-family home, including the back patio has a total lot coverage of 2,546.82 square feet which is 35% of the property. The 7,209 square foot property is currently in compliance with the Land Development Code. The applicant is proposing to remove a 170 square foot back patio and construct a 798 square foot in-ground pool, deck, and screen enclosure. Originally, the total lot coverage of the home with the proposed accessory structure would result in a lot coverage of 3174.51 square feet, or 44% lot coverage. The revised request, through the Applicant being willing to install permeable pavers around the pool to allow water to pass through the surface and infiltrate the ground below, the proposed accessory structure will now result in a lot coverage of 2985.63 square feet or 41.4% lot coverage. The lot size is typical of a lot within the Arbor Ridge Subdivision.

**Building Setbacks:** The applicant is requesting a variance to Section 110-307. The required and requested lot coverage numbers are included in the following table:

<b>Lot Coverage:</b>	<b>Current</b>	<b>Original Request</b>	<b>Revised Request</b>	<b>Change from Current Conditions to Revised Request</b>
Maximum % allowed per R1 Zone	35%	44%	41.4%	10.5 % Increase
Total Square Footage Utilized	2546.82	3174.51	2985.63	17.2 % Increase

**VARIANCES:** The applicant has applied for a variance to the following section of the Code:

1. *Section 110-307 – A variance from the required maximum allowed lot coverage of 35% to allow for 44% lot coverage to encompass a +/- 798 square foot in-ground pool, deck, and screen enclosure on the rear of the property.*

**LOT COVERAGE VARIANCES:** The applicant requests the following variances from Section 110-307:

1. *Section 110-307 – A variance from the required maximum allowed lot coverage of 35% to allow for 44% lot coverage to encompass a +/- 798 square foot in-ground pool, deck, and screen enclosure on the rear of the property.*

**LOT COVERAGE VARIANCE CRITERIA (Section 110-1103):**

The Planning and Zoning Board shall make a written recommendation to the City Commission that all of the following criteria have been met:

**CRITERIA No. 1:**

Special conditions and circumstances exist which are peculiar to the land, structure, sign, or building involved and which are not applicable to other lands, structures, signs, or buildings in the same zoning classification.

**FINDINGS OF FACT No. 1:** There are not any special conditions or circumstances that exist which are peculiar to the land, as many lots within the Arbor Ridge subdivision are smaller in size and do not exceed lot coverage.

**CRITERIA MET: NO**

**CRITERIA No. 2:**

Special conditions and circumstances exist that do not result from the actions of the applicant.

**FINDINGS OF FACT No. 2:** The proposed in-ground pool, deck, and screen enclosure are not existing on the property and are proposed by the applicant of the variance and therefore the need of the variance has been created by the actions of the property owner.

**CRITERIA MET: NO**

**CRITERIA No. 3:**

Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning classifications, under the terms of the chapter, and would cause an unnecessary and undue hardship on the applicant.

FINDINGS OF FACT No. 3: The property is zoned R1, and the proposed in-ground pool, deck, and screen enclosure currently adheres to the allowed accessory uses found within the zoning classification. The property, however, is already at its maximum allowed lot coverage which all surrounding properties have to also abide by. The developer, Meritage homes previously applied for and was granted a variance for the homes within the Arbor Ridge development to allow an increase of maximum lot coverage to 40%, but this was only for the Unit 4 Phase. Homes in the same zoning as the subject property adhere to the requirements of the maximum allowed lot coverage per the Land Development Code.

**CRITERIA MET: NO**

**CRITERIA No. 4:**

The variance granted is the minimum variance that will make possible the reasonable use of the land, building, structure, or sign.

FINDINGS OF FACT No. 4: The property is currently fulfilling it's reasonable use by being utilized as a single-family residence that currently conforms to the current code. The variance to allow an increase in the lot coverage of the property from 35% to 44% is not required for the current property to fulfill its reasonable use. The proposed variance is not necessary to allow the reasonable use of the parcel of land.

**CRITERIA MET: NO**

**CRITERIA No. 5:**

The granting of the variance is in harmony with the general intent and purpose of this Chapter and the City of Deltona Comprehensive Plan, as it may be amended from time to time, and that such variance will not be injurious to the area involved.

FINDINGS OF FACT No. 5: Lot coverage standards are in place to maintain compatible density and intensity in the residential zoning districts. They are also in place to protect neighbors and the community from increased stormwater runoff. For this reason, the proposed variance is not consistent with the purpose and intent of lot coverage maximum. The proposed variance is not in harmony with the general intent of the Land Development Code and Comprehensive Plan.

**CRITERIA MET: NO**

**FINDING OF FACT:** Staff recommends denial of Resolution 2024-65 because granting the variance will confer upon the applicant any special privilege that is denied by the Land Development Code to other lands, buildings, or structures in the same zoning district. Staff finds no unique hardship. The requested action creates a self-imposed hardship.

**PLANNING AND ZONING BOARD:** At their regular meeting on November 21, 2024, the Planning and Zoning Board voted unanimously, 7 to 0, to recommend that the Mayor and City Commission approve the variance with a lot coverage not to exceed 40%.

**CITY COMMISSION:** Item was tabled on December 9, 2024. No record of flooding issues. Applicant is willing to install permeable pavers around the pool to allow water to pass through the surface and infiltrate the ground below. This would bring the lot coverage to 41.4%

**STAFF RECOMMENDATION:** Staff recommends denial of Resolution 2024-65.

**NEXT STEPS:** The Mayor and City Commission will re-consider this item on January 21, 2025.

**LEGAL DESCRIPTION:** LOT 422, ARBOR RIDGE, UNIT 5, ACCORDING TO THE PLAT AS RECORDED IN PLAT BOOK 57, PAGES 23 THROUGH 25, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

## **ATTACHMENTS:**

- Letter
- Map Series
- House Building Permit
- Survey of property
- Proposed Work Diagram
- Survey with Proposed Accessory
- HOA Approval
- Approved variance resolution for Arbor Ridge Unit 4